



DISASTER AND THE LAW

WHAT HAPPENED TO OUR RIGHTS?



AMERICAN LAW IS BASED ON A
COMPLETE REJECTION OF
DICTATORSHIPS.

OUR FAVORITE LEADERS--NOT



King George III
King of England:

We rebelled
Against his rule

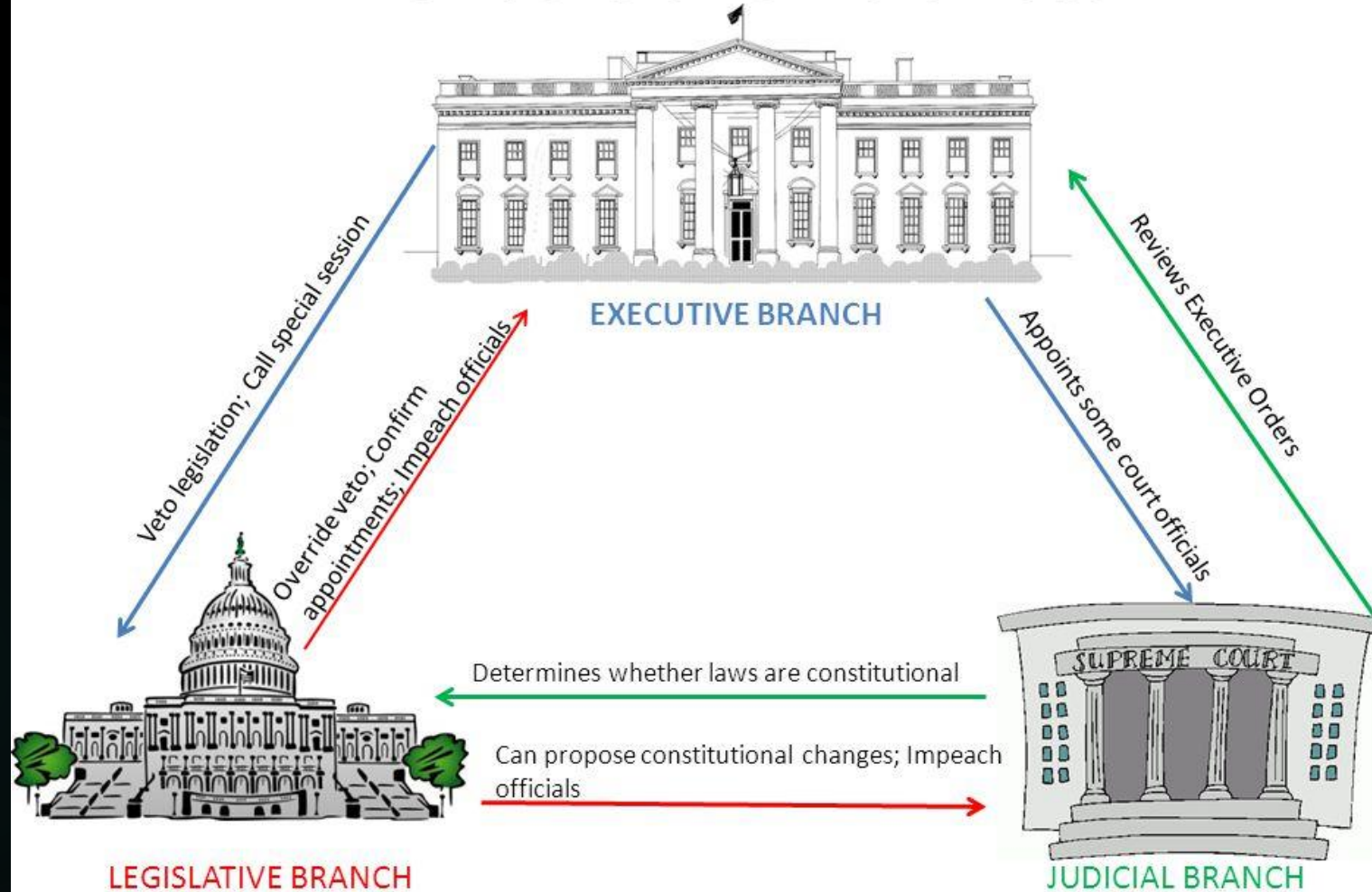




WE SPLIT UP OUR GOVERNMENT POWERS
SO NO ONE PERSON OR GROUP CONTROLS
EVERYTHING

WE CALL THAT SYSTEM
CHECKS AND BALANCES

Checks and Balances



OUR LEGAL
SYSTEM
GUARANTEES
RIGHTS
TO OUR CITIZENS.
THE TRADITION OF
INDIVIDUAL RIGHTS
TRACES BACK FOR
A THOUSAND
YEARS

INDIVIDUAL RIGHTS

MAGNA CARTA LIBERATUM

15 JUNE
1215



Magna Carta

Great Charter of the Liberties of England,
confirmed by Edward I, King of England,
Lord of Ireland, and Duke of Aquitaine, in the
25th year of his reign, 12 October 1297.

With this confirmation, Magna Carta,
penned in Latin on parchment (animal skin)
and shown here, was entered on the statute
rolls of England more than 700 years ago and
became the foundation document of English
common law.

Presented courtesy of David M. Rubenstein



The Magna Carta Liberatum

Guaranteed individual rights

By limiting the Monarch's Power

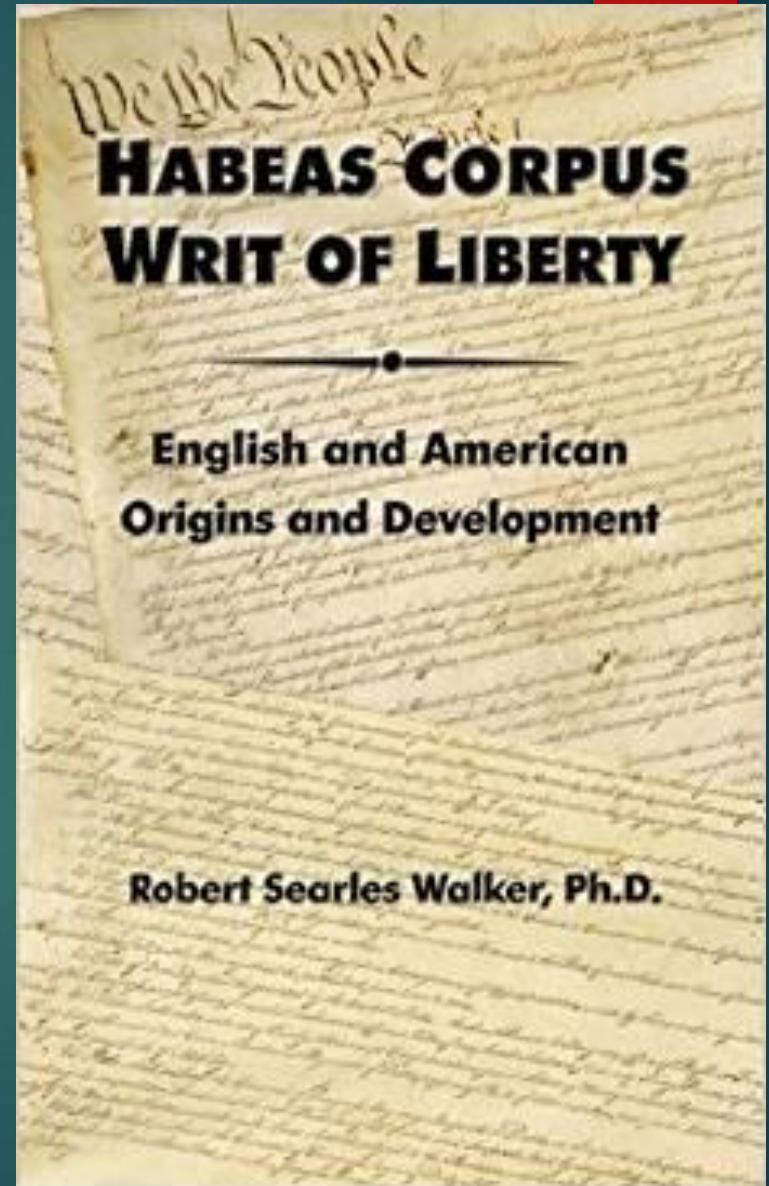
From the Assize of Clarendon

1166

By Henry II of
England

Recodified 1617

By Parliament

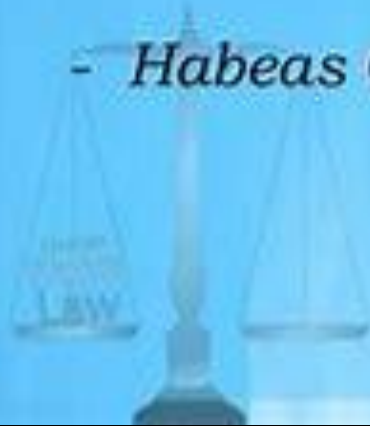


A COMMON LAW RIGHT IN AMERICA

Writ of Habeas Corpus

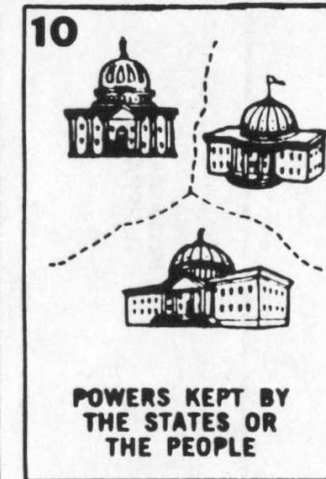
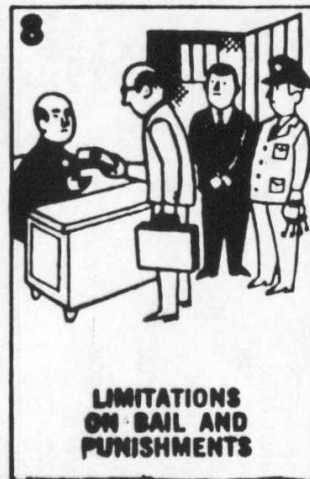
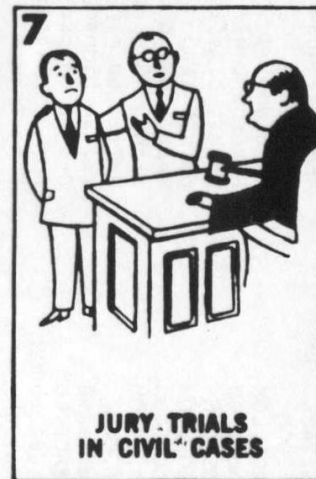
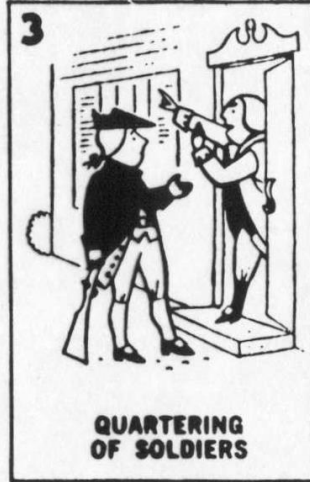
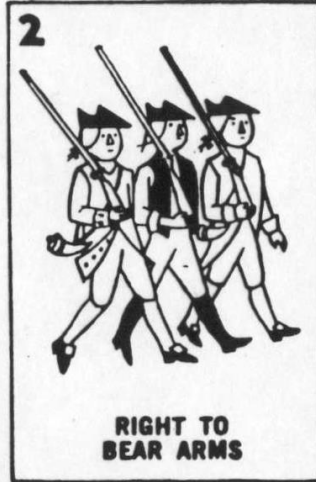
- An order issued by a court to a person detaining another, to ***produce the body*** of the prisoner at a certain time and place, and to show sufficient cause for holding in custody the individual.

- *Habeas Corpus*: “to bring the body”



THE BILL OF RIGHTS

The First Ten Amendments to the U.S. Constitution





HOW DO MOST
GOVERNMENTS
ADJUST THEIR legal
system
in a MAJOR
DISASTER?

WARNING



**MARTIAL LAW
IN EFFECT
WITHIN THIS
AREA**

WHAT IS MARTIAL LAW

- ▶ According to Merriam Webster:
- ▶ “The law administered by military forces that is invoked by a government in an emergency when the civilian law enforcement agencies are unable to maintain public order and safety”
- ▶ Martial law means the military forces run everything. The executive leader has complete dictatorial powers over everything.
- ▶ No checks and balances, no individual rights.



BUT SURELY
IN AMERICA
MARTIAL LAW
CAN'T HAPPEN

THE US CONSTITUTION TELLS US

Article 1, Section 9 of the [US Constitution](#) states,

"The Privilege of the Writ of *Habeas Corpus* shall not be
suspended,
unless
when in Cases of Rebellion or Invasion
the public Safety may require it."



**BUT-BUT-
SURELY OUR
COURTS SAY NO
TO MARTIAL LAW**

OR DO THEY

The Saga of Lambdin P Milligan

Lambdin P Milligan lived in Indiana during the Civil War

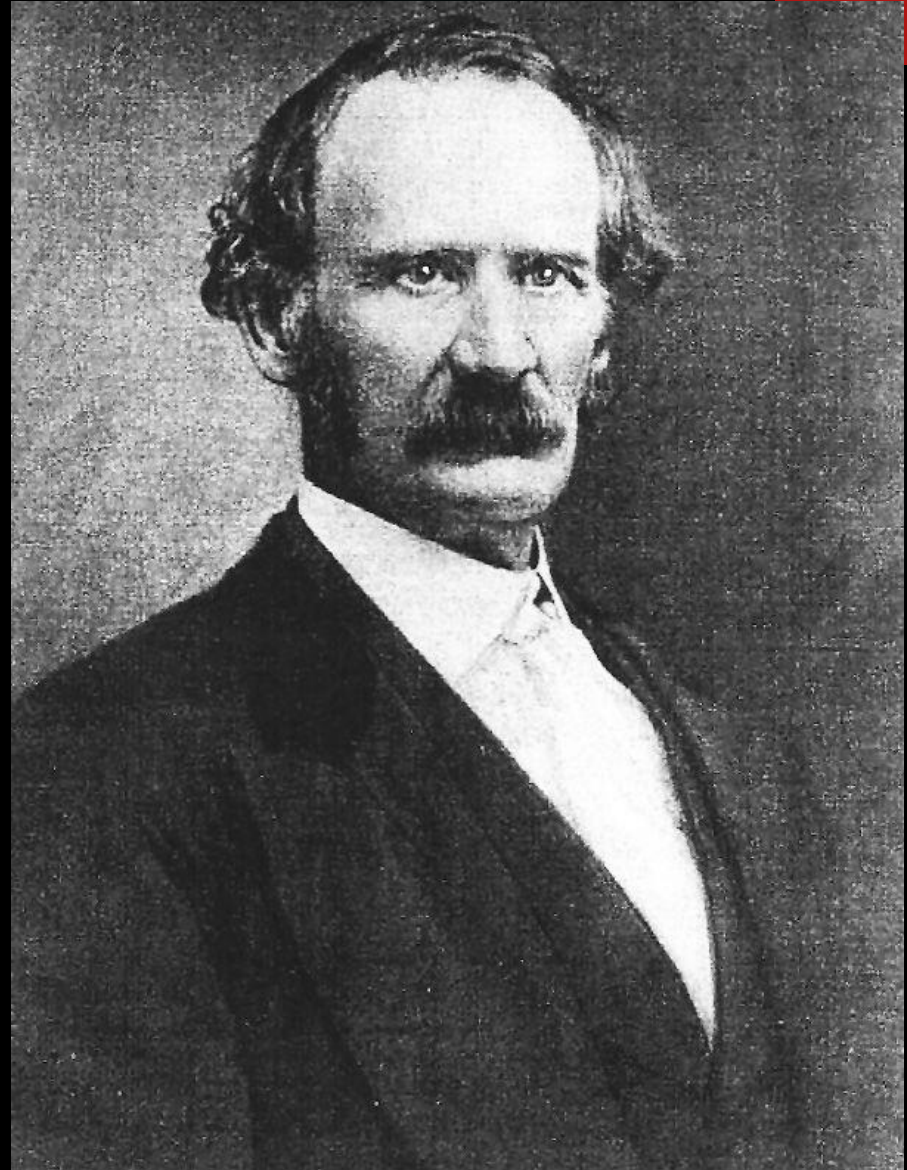
He had an unfavorable encounter with Martial Law

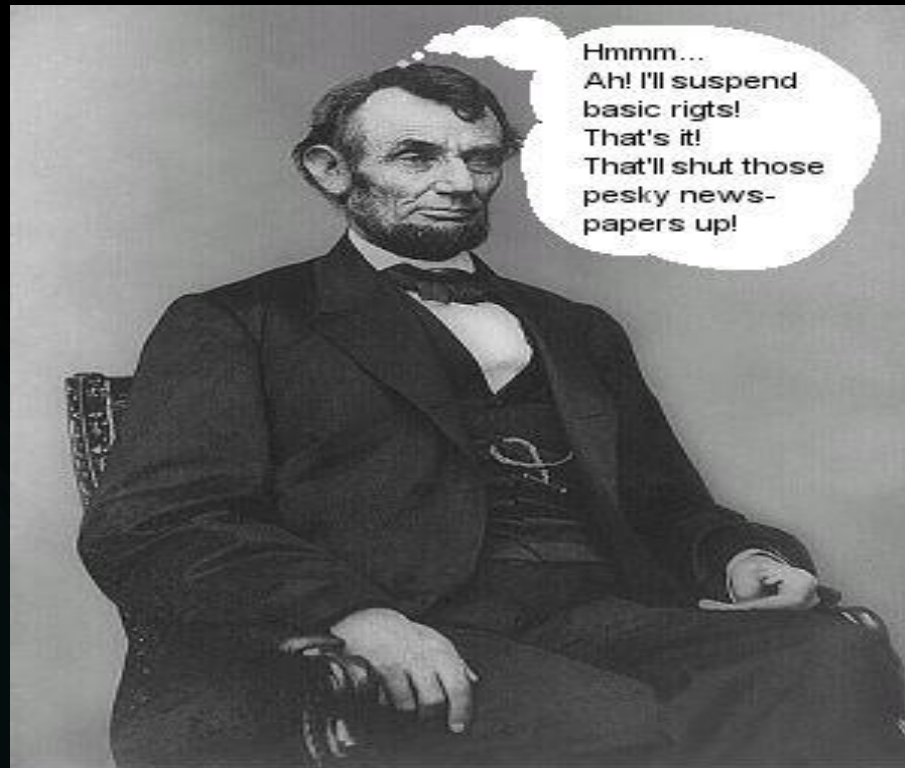
He was sentenced to death by a military tribunal

His case went before the United States Supreme Court

Landmark decision concerning Martial Law in America

Lambdin P Milligan

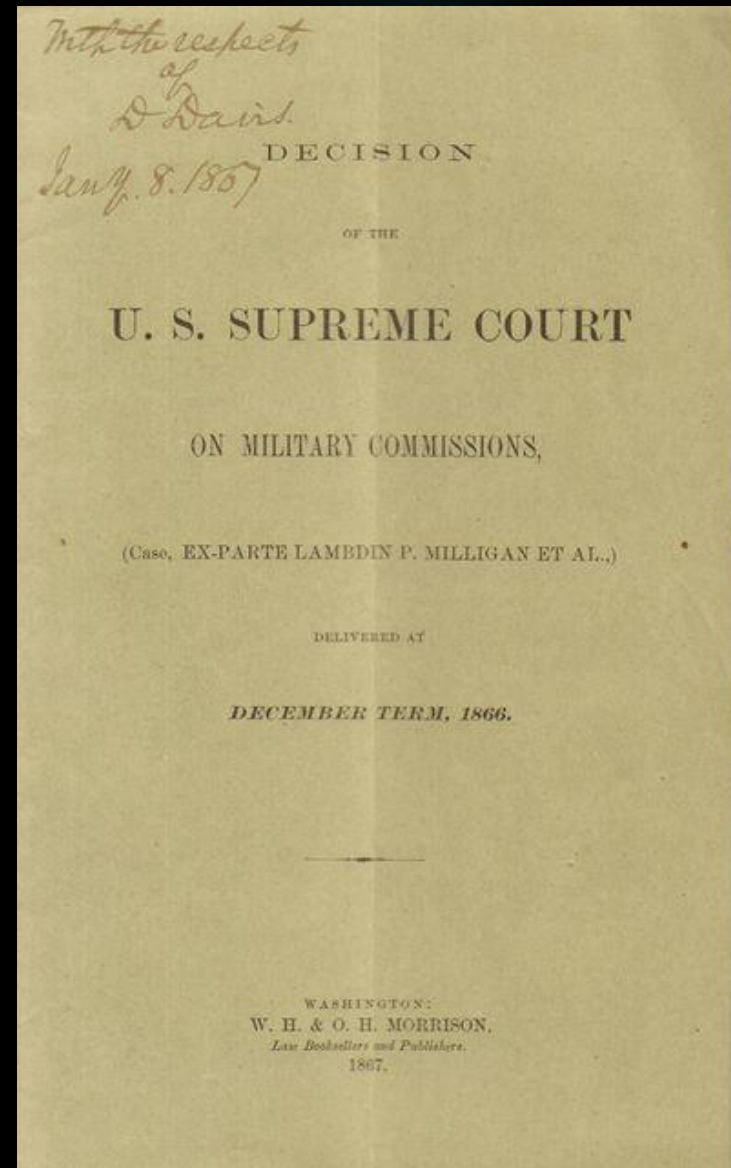




Abraham Lincoln planning
how to win the Civil War
(Artist's Conception)

LINCOLN DECLARES MARTIAL LAW

Ex Parte Milligan 1866





EX PARTE MILLIGAN

In a landmark decision on April 3, 1866, the United States Supreme Court overturned the conspiracy against the national government conviction of Huntington attorney Lambdin P. Milligan (1812-1899). This decision, rising out of the Civil War, set a precedent which protects civilians from being tried in military courts, even in time of war, if the civil courts are open and functioning.

(4 Wallace 2, 1866)



TRUE STORIES OF MARTIAL LAW IN AMERICA

New Orleans during War of 1812

Put under martial law during war
Judge declared it illegal
Judge was arrested by military
Martial law continued



1857 THE UTAH WAR

Utah governor
Declares martial law
To protect religious freedom

impracticable, and prefer to remain until Spring in the vicinity of your present encampment—Black Fork on Green River—you can do so in peace and unmolested, on condition that you deposit your arms and ammunition with Lewis Robinson, Quartermaster-General of the Territory, and leave in the Spring as soon as the condition of the roads will permit you to march; and should you fall short of provisions, they can be furnished you upon making the proper application therefor.

Gen. D. H. Wells will forward this and receive any communication you may have to make.

Very respectfully,
BRIGHAM YOUNG,
Governor and Superintendent of Indian Affairs.

The following is the proclamation referred to by Brigham Young:

PROCLAMATION BY THE GOVERNOR.

CITIZENS OF UTAH: We are invaded by a hostile force, who are evidently assailing us to accomplish our overthrow and destruction. For the last twenty-five years we have trusted officials of the government, from Constables and Justices, to Judges, Governors and Presidents, only to be scorned, held in derision, insulted and betrayed. Our houses have been plundered and then burned, our fields laid waste, our principal men butchered while under the pledged faith of the Government for their safety, and our families driven from their homes to find that shelter in the barren wilderness and that protection among hostile savages which were denied them in the boasted abodes of Christianity and civilization.

The Constitution of our common country guarantees unto us all that we do now or have ever claimed. If the constitutional rights which pertain unto us as American citizens were extended to Utah according to the spirit and meaning thereof, and fairly and impartially administered, it is all that we could ask—all that we have ever asked.

Our opponents have availed themselves of prejudice existing against us, because of our religious faith, to send out a formidable host to accomplish our destruction. We have had no privilege nor opportunity of defending ourselves from the false, foul and unjust aspersions against us before the nation. The Government has not condescended to cause an investigating committee or other person to be sent to inquire into

travel in a distant country previously known of the results of had, therefore, and were advancing the open plains and Malade River.

Our informant Lander's party, intelligence, to which the Interior Department.

We forgot to with the Secret two days' march and the Utah.

When Mr. I commencement of of Government intelligence, Go "friends Sir, "go into Salt

Brigham Y pation or kn supply trains character be society will o the general stand-up fight old mountain consequences way into the high eastern snows, much great range northern winter the supposit cessful one. grazed plain over which property of striking dis

Great Fire of Chicago Martial law 1871

(For a few days)



1906

San Francisco Earthquake

Martial law-troops deployed
Dynamite confiscated and
Used to blow up buildings
To prevent fire spreading





1934 San Francisco Dockworker strike Riots

GOVERNOR PLACED DOCKS UNDER MARTIAL LAW AND THREATENED
TO EXTEND IT TO THE ENTIRE CITY



1914 Colorado Coalfield War

WAR IN COLORADO! WOMEN AND BABIES

VOLLEYS FIRED IN STREETS

PROPOSES GOVERNMENT OWNERSHIP OF ROCKEFELLER'S COLORADO MINES

WASHINGTON, April 24.—(Continued) Government ownership of John D. Rockefeller's Colorado mines was proposed in a bill introduced in the House today by Congressman Brown of Washington.

SLAUGHTERED

TRINIDAD, Colo., April 24.—The strikers started all this trouble in Colorado, the politicians say. Southern declares they were persuaded until the strike, received from the government of the mines, and paid for the mine operation, began to shoot and kill.

But it is contended by all that it wasn't until the killing of 11 little children and two women were taken out of the battle death toll at Ludlow that the miners saw red—that they were forced with the all-consuming passion for blood vengeance.

Three children and two women, MURDERED BY JOSEPH D. ROCKEFELLER'S MINERS

THE COLORADO SITUATION

There is a very serious situation in Colorado, where the miners are on strike. The situation is very serious, and the government is taking steps to deal with it. The miners are demanding government ownership of the mines, and the government is considering this proposal. The situation is very serious, and the government is taking steps to deal with it.

MEXICANS CHEER AS U. S. TROOPS ENTER HARBOR

ARMY OF STRIKING





Governor declares martial law
Troops used to suppress strikers
Ludlow Massacre resulted
President Wilson steps in and
Restores order with Federal troops.



**Federal troops used to suppress
Wobblies (IWW)
Spokane, Wa 1917
Leaders arrested to stop
Threat of General strike**



The Beautiful State of HAWAII

Under Martial Law

OVER 400 KILLED HERE; JAPAN ANNOUNCES "WAR Japanese Raids On Guam, Panama Are Reported Oahu Blackout Tonight; Fleet Here Moves Out to Sea

Four Waves, Start At 7:55, Oahu Hit In Many Places

BULLETIN

Four waves of Japanese bombers and fighters hit Oahu tonight, starting at 7:55 p. m. and continuing in four waves. The first wave consisted of 100 bombers and fighters, the second of 100 bombers and fighters, the third of 100 bombers and fighters, and the fourth of 100 bombers and fighters.

Warships and submarines were also hit. The first wave hit the battleship USS Arizona, the second hit the battleship USS West Virginia, the third hit the battleship USS Tennessee, and the fourth hit the battleship USS Maryland.

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Governor Proclaims National Emergency

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DEC 7 1941

**THE PRESIDENT
THE WHITE HOUSE
WASHINGTON DC**

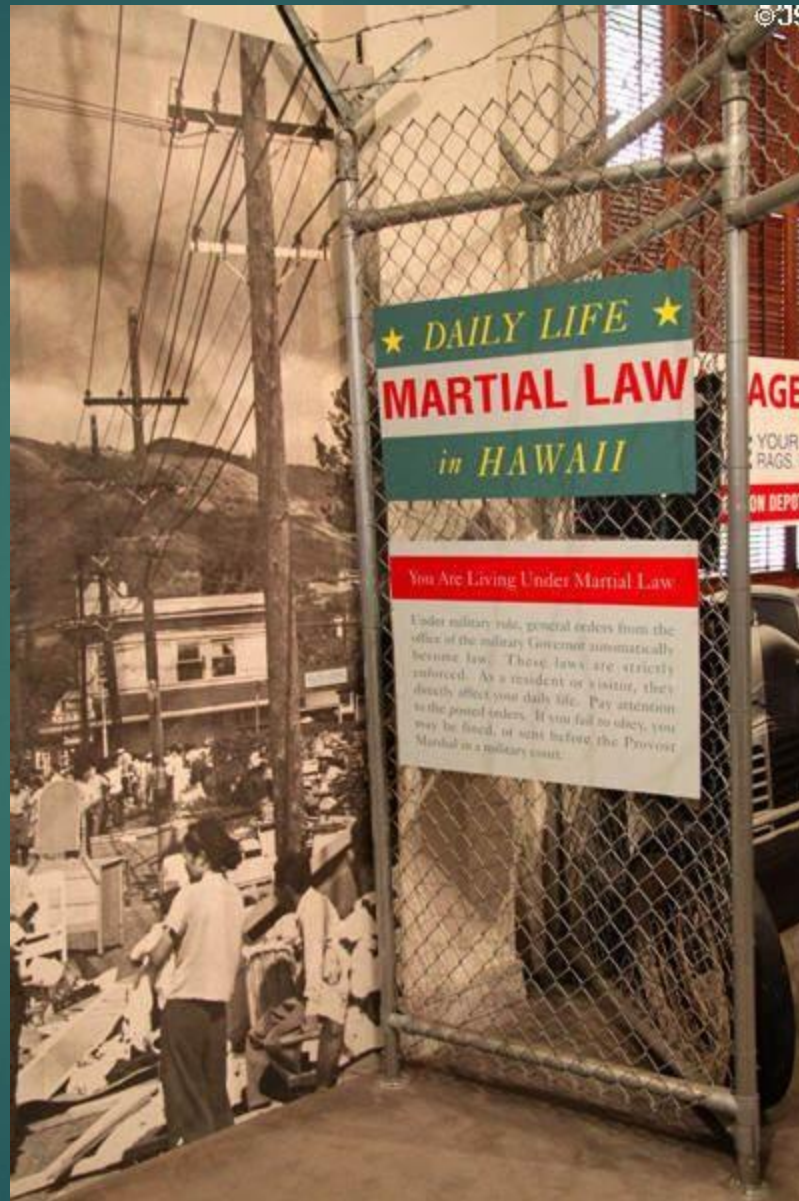
**I HAVE TODAY DECLARED MARTIAL LAW THROUGHOUT THE TERRITORY OF
HAWAII AND HAVE SUSPENDED THE PRIVILEGE OF THE WRIT OF HABEAS
CORPUS PERIOD YOUR ATTENTION IS CALLED TO SECTION SIXTY SEVEN OF
THE HAWAIIAN ORGANIC ACT FOR YOUR DECISION ON MY ACTION
POINDEXTER**

DEC 9 1941

**HONORABLE JOSEPH B POINDEXTER
GOVERNOR TERRITORY OF HAWAII
HONOLULU HAWAII**

**YOUR TELEGRAM OF DECEMBER SEVENTH RECEIVED AND YOUR ACTION IN
SUSPENDING THE WRIT OF HABEAS CORPUS AND PLACING THE TERRITORY
OF HAWAII UNDER MARTIAL LAW IN ACCORDANCE WITH USC TITLE 48 SECTION
532 HAS MY APPROVAL**

FRANKLIN D ROOSEVELT





Martin Luther King And Demonstrators against Segregation in the South Dealt with Martial Law

Freedom Riders

- Robert Kennedy decided to send federal marshals to the city
- Martin Luther King, Jr., flew to Montgomery and held a mass meeting, surrounded by federal marshals, in support of the Freedom Riders
- a mob of **several thousand whites surrounded the church**
- at 3 AM, King called Robert Kennedy and Kennedy called Alabama Governor John Patterson - he declared martial law and sent in state police and the National Guard
- Freedom Riders, however, decided to continue on to Mississippi
- were given good protection as they entered the state, and no mob greeted them at the Jackson bus terminal
- Robert Kennedy and Mississippi Senator James O. Eastland had reached a compromise Kennedy promised not to use federal troops if there was no mob violence
- the Nashville Freedom Riders were arrested by local police - May 25, they were tried - as their attorney defended them, the judge turned his back
- Freedom Riders never made it to New Orleans



STATUTES THAT DEAL WITH DISASTER LAWS

LAWS PASSED BY CONGRESS ATTEMPTING TO REGULATE THE USE OF
MILITARY OR EXECUTIVE AUTHORITY TO DEAL WITH DISRUPTION AND
DISASTER.



POSSE COMITATUS ACT

LIMITS USE OF MILITARY FORCES FOR DOMESTIC
PURPOSES.

Enacted by congress
In 1878
To limit use of military
For domestic purposes.



posse comitatus

it shall not be lawful to employ any part of the Army of the United States, as a posse comitatus, or otherwise, for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said force may be expressly authorized by the Constitution or by act of Congress.

STATUTES RELEVANT TO DISASTER MANAGEMENT



Hurricane Katrina led to a major revamping of laws
focused on disaster management

The Stafford Act

Robert T. Stafford
Disaster Relief and Emergency
Assistance Act, *as Amended*

April 2013

Robert T. Stafford Himself

Looks like a
Decent guy



It's all about.... FEMA





Huge bill

173 pages

Of dense legalese

Not counting the

Regulations

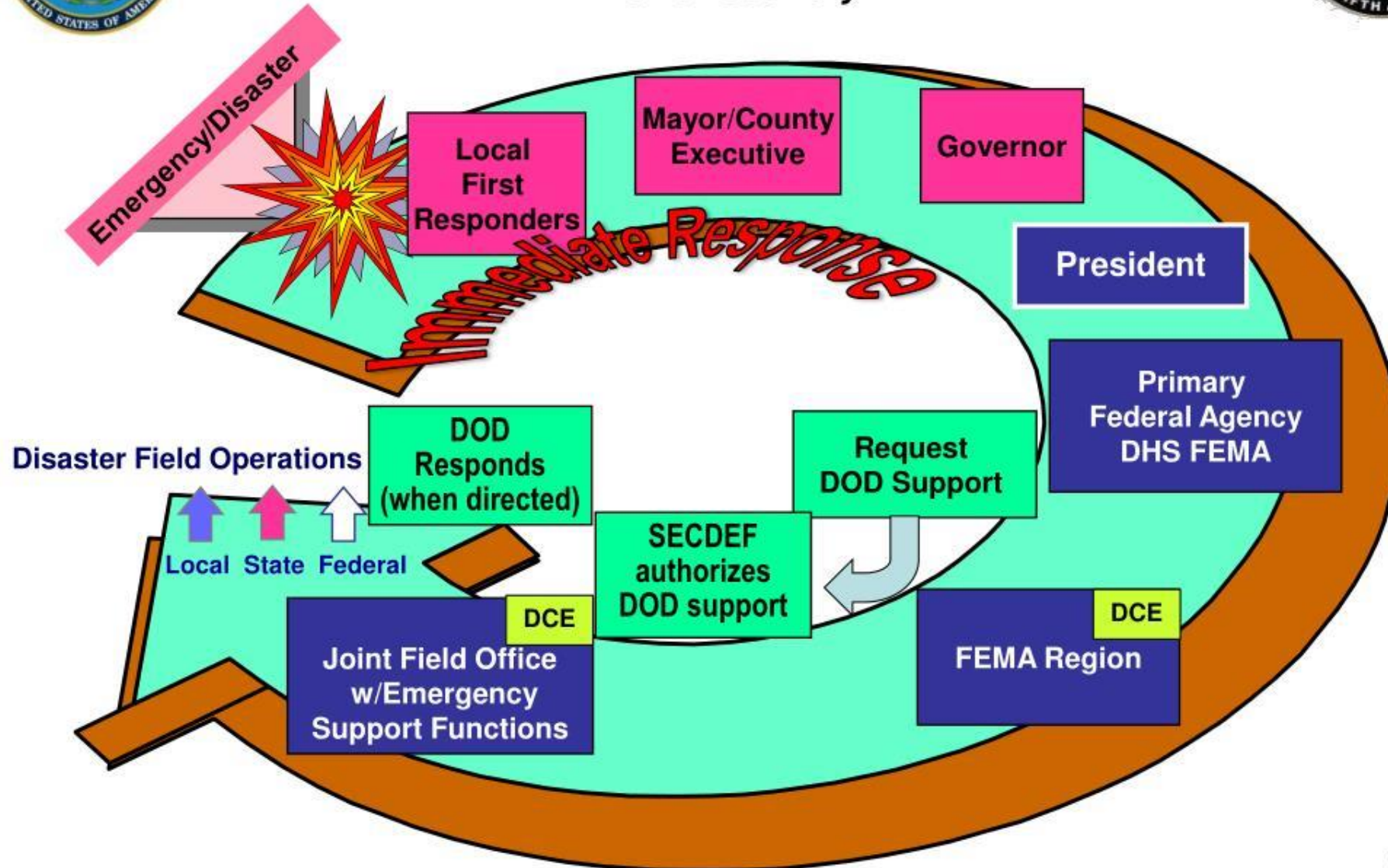
Statutory Constraints: the Stafford Act

- ❑ The Robert T. Stafford Disaster Relief and Emergency Assistance Act (1988) calls for disaster and emergency declarations for events that overwhelm state and local capability. These trigger statutory authority and access on the part of FEMA to a Disaster Relief Fund to provide federal direct aid and financial assistance to render emergency services. Along with the legislation that created the agency, this Act authorizes FEMA to coordinate the administration of all disaster relief.
- ❑ A Governor must execute the given State's emergency plan and indicate in writing that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and affected local governments and supplemental Federal assistance is necessary. A Disaster Declaration made by the President specifies the types of assistance authorized for that state.
- ❑ A Governor's request is not necessary for the President to issue an emergency declaration if it involves a "Federal primary responsibility." Such responsibility rests with the United States government because the emergency involves a subject area for which, under the Constitution or federal laws, the United States exercises exclusive or preeminent responsibility and authority. Examples: Direct federal action after the bombing of the Murrah Federal Building in 1995; the Pentagon attack in 2001; and the Shuttle Columbia explosion in 2003.



DSCA Stafford Act Response

Federal resources to supplement state and local disaster relief and recovery



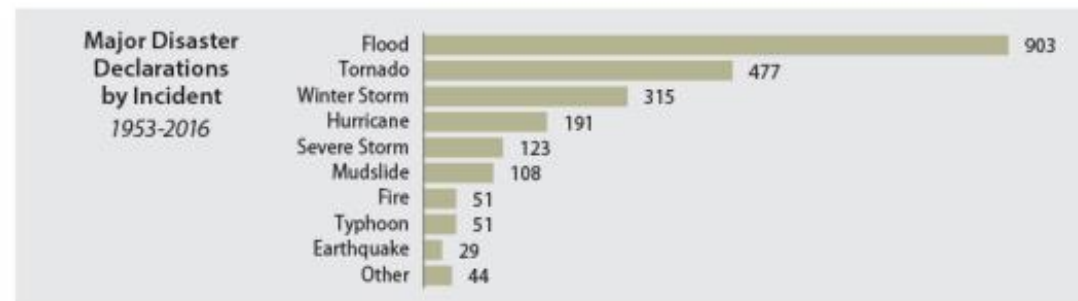
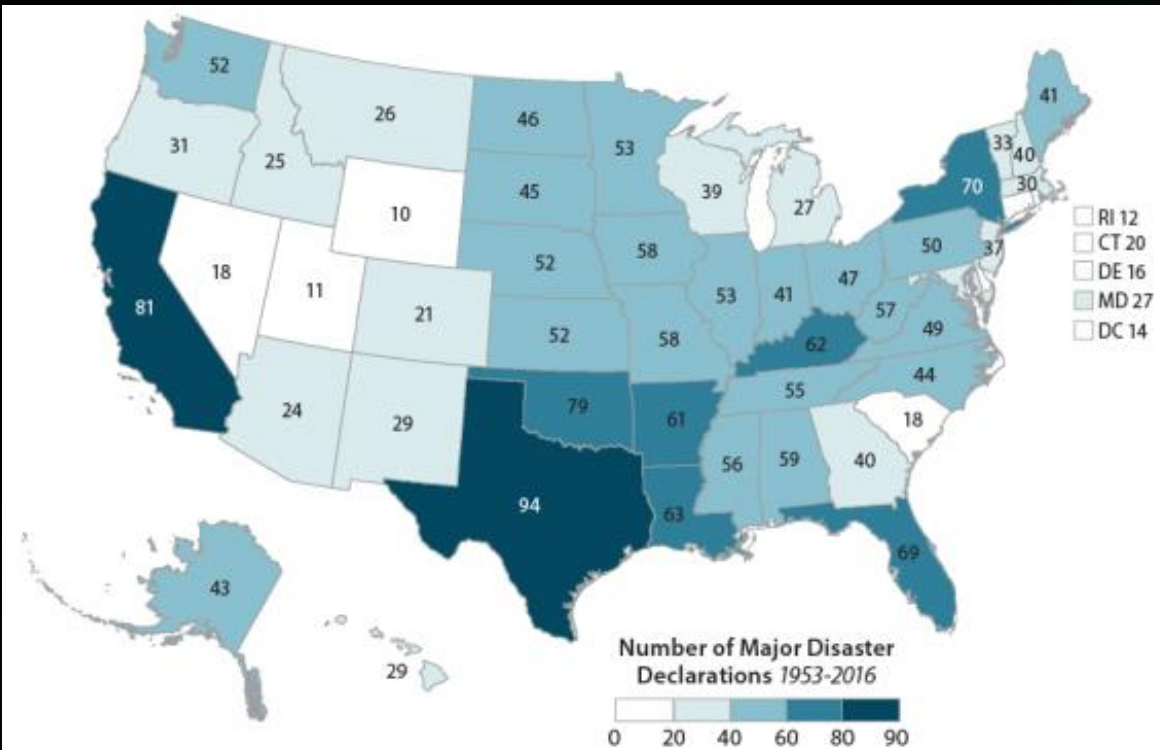
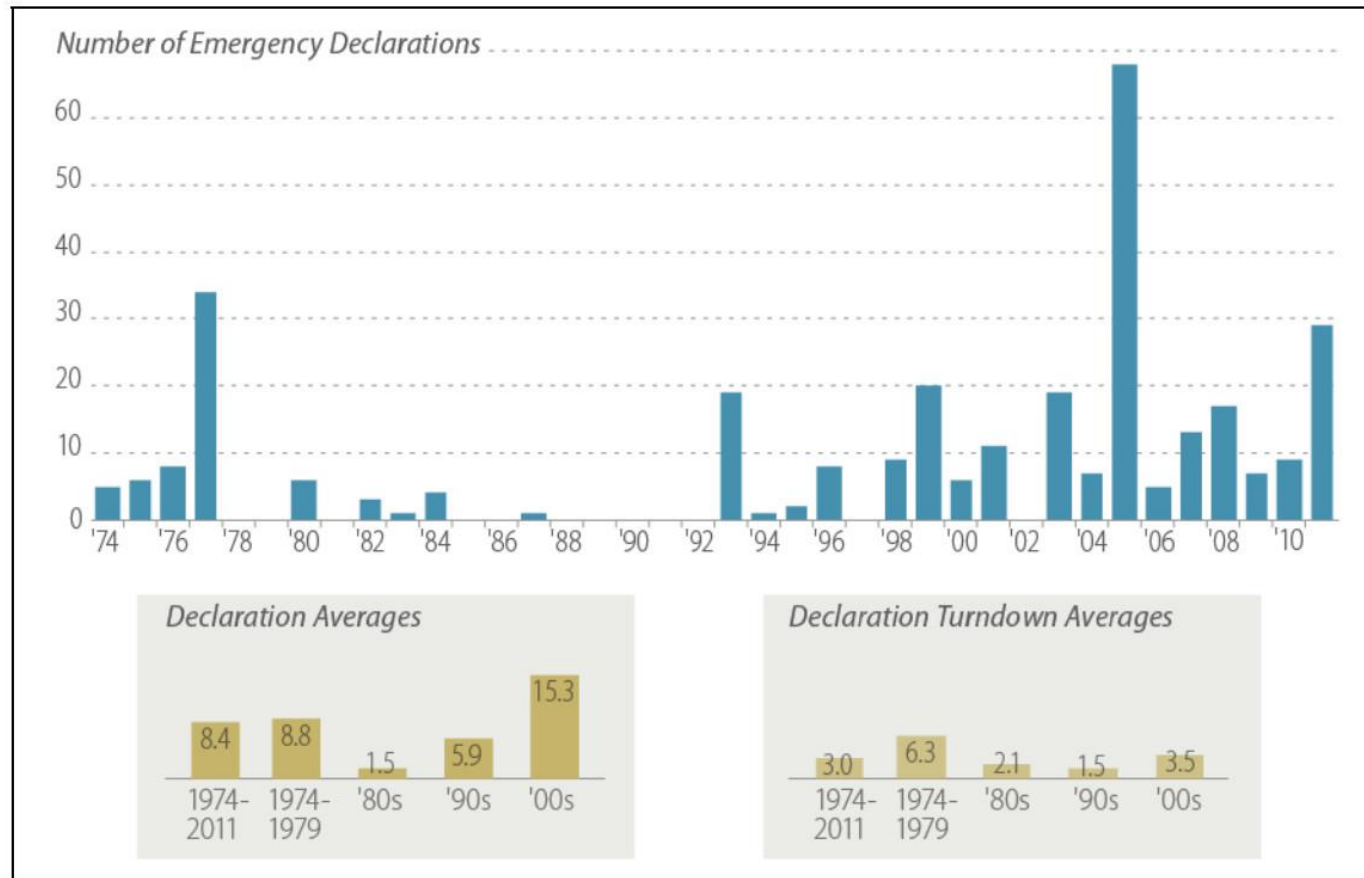


Figure 3. Emergency Declarations
1974-2011



Source: CRS analysis based on data provided by FEMA.



- The President may exercise any authority vested in him by section 5192 of this title or section 5193 of this title [Sections 502 or 503] with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority

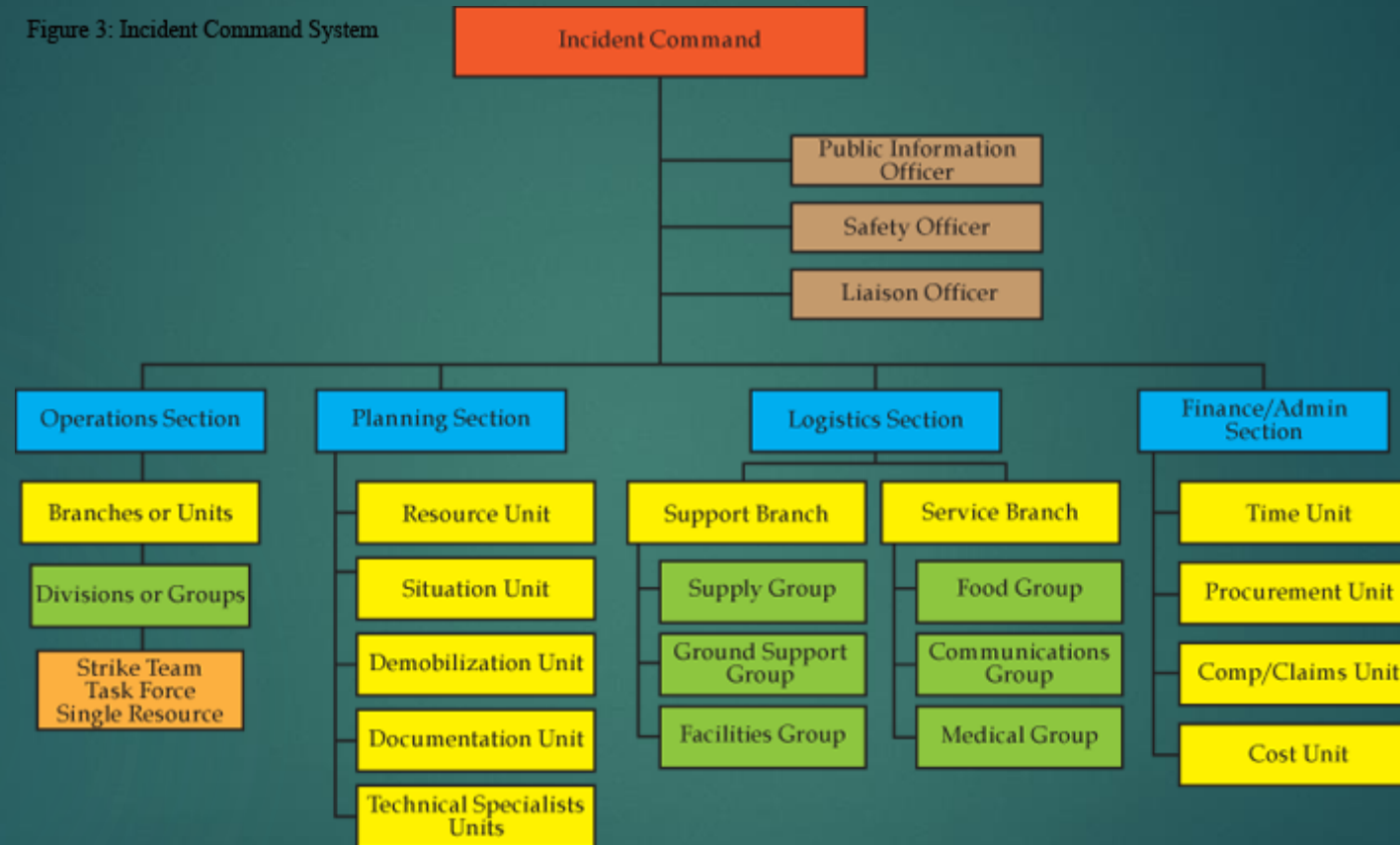


FEMA HAS BROUGHT US

ICS

INCIDENT COMMAND SYSTEM

Figure 3: Incident Command System





ICS REALLY WORKS

Not a democracy-
But also not Martial Law

LESSONS I HAVE LEARNED ABOUT ORGANIZING AN EVENT

Democracy takes a lot of time
And energy
Sometimes you just have to
Get things done

THIS IS WHAT WE DON'T WANT

Fema approach under Stafford Act provides a well ordered alternative to disaster response that makes Martial Law unnecessary.



THIS IS HOW WE WANT TO FEEL



The Stafford Act
process and FEMA
really work to make
things better for all of
us.